



Battle Creek Zoning Board of Appeals

Staff Report

Meeting: September 13, 2011
Appeal #Z-09-11

To: Zoning Board of Appeals
From: Glenn Perian, Senior Planner
Subject: Petition for a dimensional variance (Z-09-11) to permit the construction of a detached accessory building in a front yard (street side) on a lakefront property located at 600 Jennings Landing.

Summary

This report addresses a petition from Jeff E. Spanninga, seeking approval of a Dimensional Variance (Z-09-11), to construct a detached accessory building in the front, street side, yard at 600 Jennings Landing.

Background/Project Information

The subject site is located at 600 Jennings Landing. The subject lot is an interior lot and has a dual zoning of R-1B "Single Family Residential" District and R-1C "Single Family Residential" District. The subject lot is approximately 123' wide x 332' deep and meets the minimum width and lot area standard for the R-1B and R-1C zones, however, this particular lot slopes severely, approximately 20', in the rear yard just beyond the home down to Goguac Lake. The residential home and detached garage were originally constructed in 1920 and both structures are/were located on a flat portion of the lot. The request is to re-construct a slightly larger (1080 sq.ft.) detached accessory building in the street side front yard to provide additional storage for personal items of the owners. The previous detached structure was 630 sq.ft. Chapter 1286.05 of the Zoning Ordinance states that parcels having frontage on a lake shall be allowed an accessory building in the waterfront front yard provided that it meets the front and sided yard setback requirements for the main residential building.

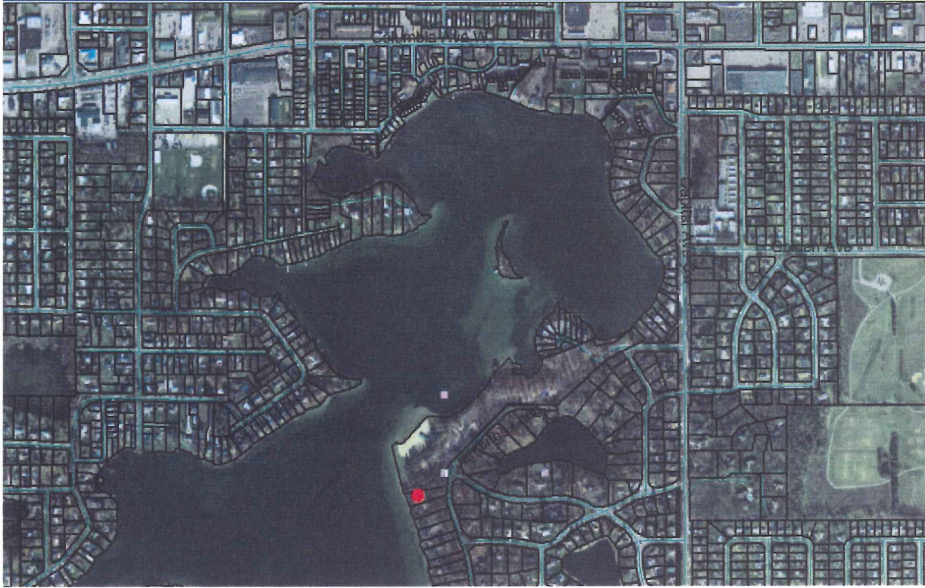
Legal Description

WILLARD WOODS LOT 131, ALSO TRIANGULAR PARCEL BEG AT NE COR SD LOT 131 - N 66.9 FT - S 79 DEG 17 MIN W 349.43 FT TO NW COR SD LOT 131 - S 89 DEG 38 MIN E 341.50 FT - ALG N LI SD LOT 131 TO POB

Public Hearing and Notice Requirements

An advertisement of this public hearing was published in the Battle Creek SHOPPER NEWS on Thursday, August 25, 2011, not less than the 15 days before the hearing as required by State Law and ordinance.

Notices of the public hearing were also sent by regular mail on August 22, 2011, to 14 property owners and occupants located within 300 feet of the subject parcel. Planning staff has received no comments relative to this request.



Aerial Photograph of the Subject Site

Surrounding Land Uses

The subject property is located in a residential neighborhood off Capital Ave. SW on Goguac Lake and just south of Willard Beach.



Applicable Zoning Ordinance Provisions

Chapter 1234.04(a) C. Permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God or the public enemy, to the extent of more than fifty percent of its insurable value, where the Board finds some compelling necessity requiring a continuance of the nonconforming use, and the primary purpose of continuing the nonconforming use is not to continue a monopoly; and

- (b) The Board shall have the authority to grant the following variations:
 - (1) **Nonuse.** If there are practical difficulties for nonuse variances relating to the construction, structural changes, or alterations of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related

standard in the ordinance in the way of carrying out the strict letter of the zoning ordinance, then the Board may grant a variance so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice is done. The Board may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act, MCL 125.3101 et seq.; and [MCL 125.3604(7) and (8).]

Analysis

The Appellant is requesting a front yard, street front, variance at 600 Jennings Landing that would authorize the construction of a detached accessory building in a front yard, contrary to limitations outlined in chapter 1286 of the Planning and Zoning Code. The Appellant has stated in the supporting material that the lot slopes severely in the rear yard which makes placing the building behind the house in the rear yard, lake side nearly impossible. The Appellant has supplied additional reasons supporting the request for appeal and they are included with the application and part of this report. An aerial photo showing the shape of the lot, building locations, and existing contours of the lot has also been provided. The Appellant would like to place the building east of the residence in the front yard and in compliance with all other setback requirements for main buildings in the approximate location of the damaged garage.

Is there something unique about this lot or property that makes relief necessary? We would agree that by definition the lot meets the minimum standards for the R-1B and R-1C zoning district. We would also agree that the lot slopes approximately 20' in the rear yard making it difficult to near impossible to locate the building in the lakeside yard. The Appellant has very limited options other than what is proposed for a location for the accessory building. Furthermore, Chapter 1286 of the Planning and Zoning code states that accessory buildings shall be permitted on residential lots.

Findings and Recommendation

The Zoning Board of Appeals can approve, approve with conditions, or deny this request. The Zoning Board of Appeals can also table or postpone the request pending additional information. In consideration of all variations from the Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the conditions listed below are satisfied. Planning staff has reviewed these conditions and we believe that each condition can be justified in an affirmative manner. We have provided a rationale for each condition set forth below for Dimensional Variances. Therefore, the Planning staff recommends that the Zoning Board of Appeals approve the Dimensional Variance (Z-09-11) based on the following findings contained in this staff report.

- A) Staff finds that practical difficulty does in fact exist if the strict requirement of the Ordinance is applied to this specific building project and that the Board is authorized to grant a variance in this case. We believe that the practical difficulty associated with the severe slope of the lot in the lakeside yard presents substantially more than a mere inconvenience in this case.
- B) Staff believes that the practical difficulty associated with the severe slope of the property is exceptional and peculiar to the subject parcel and does not generally exist throughout the City. The slope of the land is not self created and because the

ordinance allows for accessory buildings on residentially zoned property, we do not believe the lot could accommodate an accessory building in the location (lake side) that the Ordinance allows.

C)Staff does not believe that if the variance is granted that the intent of the Ordinance will be altered or that the rights of others will be compromised.

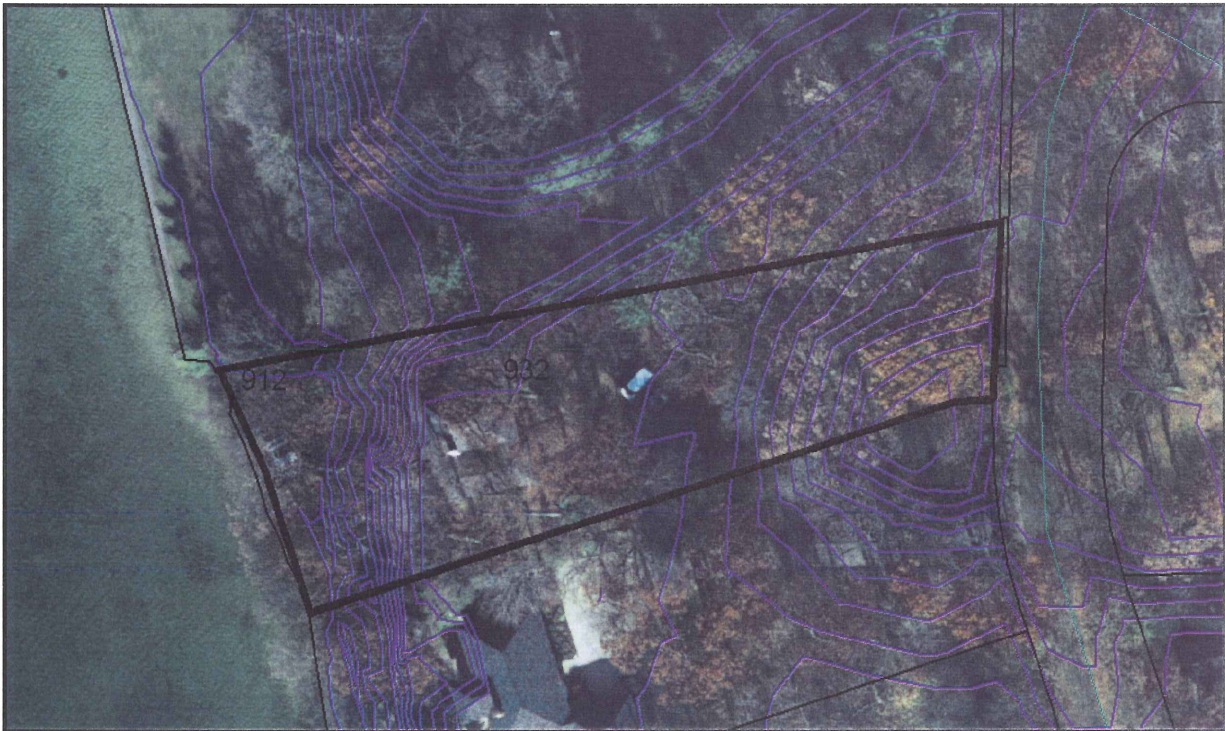
D)Staff believes that the variance requested is the minimum necessary to provide relief from the practical difficulty of the severe slope of the lakeside front yard.

Attachments

The following information is attached and made part of this Staff Report.

1. ZBA Petition Form (Petition #Z-09-11)
2. Aerial photo of the property showing the contours of the lot
3. A sketch drawing showing the proposed location of the storage shed

600 Jennings Landings
Showing 2' contours



Date: 8/16/2011

Appeal No. Z-09-11

APPLICATION FOR A VARIANCE
ZONING BOARD OF APPEALS
City of Battle Creek, Michigan

An Appeal to the Zoning Board of Appeals to authorize a variance from the requirements of the Planning and Zoning Code (Part Twelve) of the City of Battle Creek.

Name of Appellant: Jeff E. Spinninga

Address: 910 8 Mile Road Cassopolis MI 49505 Phone: 269-979-4077

Name of Owner (if different from Appellant): Spinninga Family Trust

Address: 600 Jennings Landing BC Phone: 269-365-3095

TO THE ZONING BOARD OF APPEALS: Request is hereby made for permission to:
(Choose One) Extend Erect Waive Use Convert Enclose

Description: GARAGE Lost In Storm - 5/29/2011 - REPLACEMENT WITH A
30' x 36' GARAGE IN SAME LOCATION AS THE ORIGINAL

Contrary to the requirements of Section(s) 128.05 of the Planning and Zoning Code, upon the premises known as 600 Jennings Landing Battle Creek, MI, in accordance with the plans and/or plat record attached.

The proposed building or use requires Board action in the following area(s):

LOCATION HEIGHT AND SQUARE FOOTAGE. WE CANNOT
BUILD ON LOT BETWEEN HOUSE AND LAKE - TO STEEP OF A
GRADE

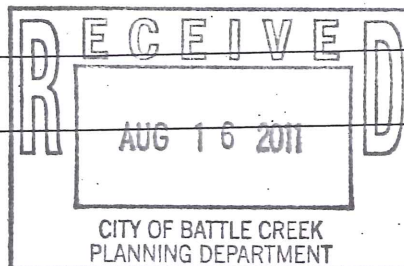
Property/Tax I.D. # No. 9610 - 25 - 031 - 0 Size of the Lot: Width Depth

Size of Proposed Building: Width 30 Depth 36 Height 16'8"

The following reasons are presented in support of this appeal (complete each section):

- (a.) This property cannot be used in conformance with the ordinance without the requested variance because:

DUE TO STEEPNESS OF GRADE IN REAR YARD (LAKE SIDE)



Form Rev. 09/22/10

- (b.) This problem is due to a unique situation not shared in common with nearby property owners because:

THE STEEPNESS OF THE GRADE

- (c.) Granting the variance would not alter the essential character of the area because:

IT IS REPLACING THE GARAGE LOST IN STORM BY
TODD'S FILLING ON IT.

- (d.) The problem is not self-created because:

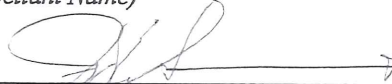
IT WAS AN ACT OF GOD - STORM DAMAGE

- (e.) USE VARIANCES ONLY It is not possible to use this particular property for any other use currently allowed in the zoning district because:

I hereby affirm that, to the best of my knowledge, all the above and accompanying statements and drawings are correct and true. In addition, I give permission to the City of Battle Creek's Planning Department staff to access my property, if necessary, to take photographs of the subject of this appeal.

JEFF SPANNING

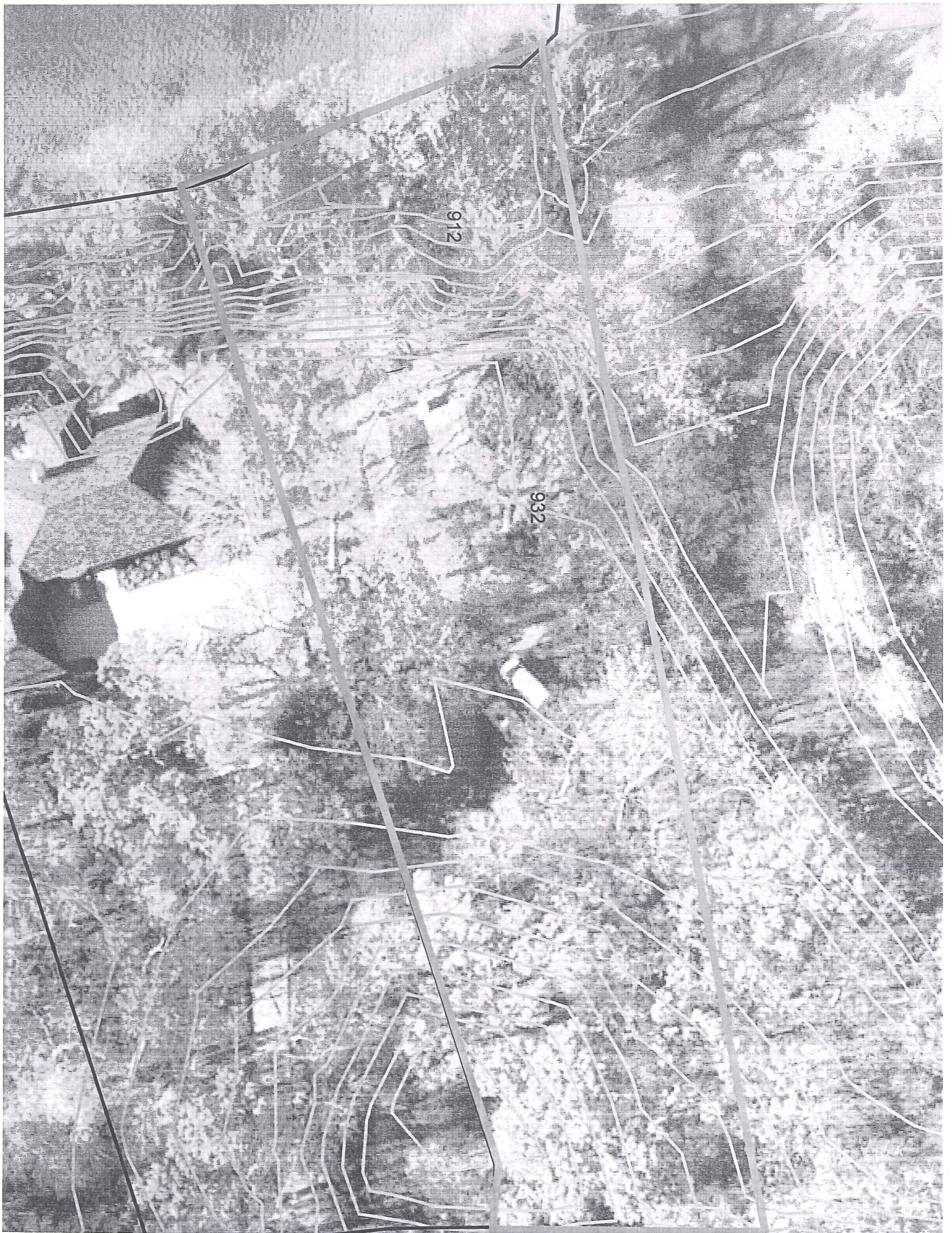
(Print Appellant Name)



(Signature of Appellant)

(Address of Appellant)

If you require additional information or assistance in filling out this application, please contact the Planning Department at (269) 966-3320.





#600

JENNINGS LANDING

2ft. CONTOURS





Existing House

New Garage
30' x 36'

#600

JENNINGS LANDING